IN THE HIGH COURT OF HIMACHAL PRADESH SHIMLA.

CWP.No. **1490 of 2002**

Date of Decision : 29.5.2007

Lt.Col. (Retd) K.J. Singh & others …Petitioners.

Versus:

Union of India & others. …Respondents.

***Coram*:**

The Hon'ble Mr.Justice Sanjay Karol, Judge.

Whether approved for reporting?[1]

For the petitioners: Mr. B. C. Negi, Advocate.

For the respondents. Mr. Janesh Mahajan, Central Govt. Counsel.

Sanjay Karol, J (Oral).

Petitioners have filed the present writ petition seeking release of the compensation amount as awarded by the Arbitration Committee in terms of its award dated 20th November, 2000, and for a direction that the respondents be directed to decide the appeal filed by the petitioners, which is pending before the Directorate General of Defence Estates.

The Bungalow commonly known as 'Waverly Estate', situated at Kasauli Cantonment, District Solan (H.P.), was acquired by late Shri Amar Singh. Petitioners are the legal heirs of Shri Amar Singh, who died on 28th August, 1995. Vide order

[1] **Whether reporters of Local Papers may be allowed to see the judgment?**

dated 3rd March, 1987, a notice of resumption of property in terms of the provisions of Grant as also the statutory regulations governing the said Grant was issued to the petitioners. Compensation for resumption was also fixed. Since the compensation award of Rs.50,816/- was not acceptable, in terms of the provisions of Clause 7 of the "General Order by the Governor General in Council No. 179, dated 12th September, 1836" (hereinafter referred to as the 'General Order'), an arbitration was sought by the petitioners and the Arbitration Committee was duly appointed by the Govt. of India in terms of its undated letter of June, 1987. In accordance with the terms and conditions of reference, an award dated 20th November, 2000 was passed by the Arbitration Committee, whereby the amount of compensation due and payable to the owner was determined and enhanced from Rs.50,816/- to Rs.20 lacs. plus interest payable from different dates.

Being dis-satisfied with the same, petitioners preferred an appeal dated 7.7.2002 exercising his right under Clause 8 of the General Order, which is still pending adjudication.

The fact that the grant in relation to the property in question is governed by the General Orders, is not in dispute. In fact the respondents in their counter-affidavit have admitted the same in para No.3, which is reproduced as under:-

> "That in reply to this para, it is respectfully submitted that the General Land Register maintained

by the respondent No.4 under Rule 3 Chapter II of Cantonment Act 1924, the said Bungalow was held on old grant terms under governed by G.G.O No. 179 dated 12/9/1836 wherein land and trees belong to Govt. of India, Ministry of Defence. Shri Amar Singh was admitted old grant terms as contained in G.G.O. No. 179 dated 12/9/1836 till the same was resumed."

Mr. Negi has also drawn my attention to the decision rendered by the Apex Court in 1995 Supp. (4) SCC 113 (***Union of India and Others*** vs. ***Harish Chand Anand***) and 1999 (3) SCC 555 (***Chief Executive Officer*** vs. ***Surendra Kumar Vakil and others***) to contend that the General Orders have statutory force and have been made by the Governor General-in-Council in exercise of his statutory powers. Therefore, it can be safely held that the General Order has the force of law.

It is an admitted case of the parties that the respondents have not taken any steps to challenge the award. Admittedly, the appeal filed by the petitioners is pending before the concerned authorities and no plausible explanation is there as to why the same has not been considered and decided so far. Keeping in view the circumstances of the case as also the prayer made in the petition, the respondents are directed to dispose of the appeal at the earliest and not later than four weeks from today. The respondents would afford due opportunity of hearing

to the petitioners and decide the appeal by passing a reasoned order.

Liberty is granted to the petitioners to file a fresh petition on the same pleas taken in the present petition, if they are aggrieved by the orders passed by the respondents. The issue with regard to the release of awarded amount is not decided and left open. The respondents shall pay costs of Rs.10,000/- to the petitioners. Writ Petition is accordingly disposed of.

Copy ***Dasti***.

(Sanjay Karol),
Judge.

May 29, 2007.
(rana)